

USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID/Liberia's Compliance with the Brooke Amendment and Sections 620(q) and 617 of the Foreign Assistance Act of 1961

Audit Report No. 7-669-02-001-P

March 7, 2002



Dakar, Senegal

U.S. Agency for International Development



U.S. Agency for
INTERNATIONAL
DEVELOPMENT

RIG/Dakar

March 7, 2002

MEMORANDUM

FOR: Edward Birgells, USAID/Liberia Director

FROM: Dennis Bryant, Acting Regional Inspector General/Dakar

SUBJECT: Audit of USAID/Liberia's Compliance with the Brooke Amendment and Sections 620(q) and 617 of the Foreign Assistance Act of 1961 (Report No. 7-669-02-001-P)

This memorandum is our report on the subject audit. We have considered your comments to the draft report and have included them in their entirety as Appendix II. The report contains no recommendations for your action.

I appreciate the cooperation and courtesy extended to our staff during the audit.

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Summary of Results

Liberia became subject to Section 620(q) and Brooke Amendment sanctions for fiscal year 2000 funds when the appropriations act¹ was signed on November 29, 1999. As a result, no part of any fiscal year 2000 appropriation contained in the Act should have been used to furnish assistance to Liberia. However, there are several notwithstanding legislative authorities that allow assistance to be furnished to a country subject to Section 620(q) and Brooke despite the prohibitions arising from the legislative sanctions (Page 3).

We designed the audit to determine whether USAID/Liberia had complied with selected criteria of the Brooke Amendment and Sections 620(q) and 617 of the Foreign Assistance Act of 1961, as amended, for fiscal year 2000 funding. The audit disclosed that USAID/Liberia had complied with the above legislation. The audit report contains no recommendations (Page 4).

After Liberia became subject to Section 620(q) and Brooke, USAID/Liberia prepared a “wind up” plan, identifying those activities that it wanted to fund with fiscal year 2000 appropriations. It then requested appropriate waivers under available notwithstanding authorities, which were subsequently approved by the Assistant Administrator for the Africa Bureau and the USAID Administrator. USAID then notified Congress, accordingly, of the program changes for those waivers requiring such notification. After the congressional notification period had expired, USAID/Liberia then obligated the fiscal year 2000 funds in compliance with the subject legislation (Page 5).

Mission management provided no official comments regarding the findings in this report. However, they unofficially informed us that they had no comment on the report and accepted it as written.

Background

The United States has made loans to many countries throughout the world. If a country fails to pay either the principal or interest on these loans, as specified in the loan agreements, certain legislative sanctions are to be enforced. These sanctions are found in the Foreign Assistance Act of 1961, as amended (FAA), and the individual fiscal year appropriations acts (the Act).

Section 620(q) of the FAA provides that assistance under the FAA shall not be furnished to any country that is in default for a period of six months or more on the principal or interest on any loans made by the United States under the FAA. The Brooke Amendment is Section 512 of the Act for fiscal year 2000. It provides that no part of any appropriation contained in the Act shall be used to furnish assistance

¹ Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 2000

to a country that is in default for 12 months or more in payment of principal or interest on any loan made by the United States for programs under the Act. Liberia has been in violation of Section 620(q) of the FAA and the Brooke Amendment since December 31, 1988 and July 1, 1989, respectively. Although prior appropriation acts contained statutory waivers for Section 620(q) and Brooke sanctions for Liberia, the fiscal year 2000 appropriations act did not include such a waiver. As a result, Liberia became subject to Section 620(q) and Brooke sanctions for fiscal year 2000 funds when the Act was signed on November 29, 1999.

Since prior year statutory waivers remain in effect, the Brooke Amendment and Section 620(q) do not affect prior year funds, and USAID may continue to use those funds. Additionally, for fiscal year 2000 funds, there are a number of notwithstanding authorities in the FAA and the Act that permit the furnishing of assistance notwithstanding the prohibitions on assistance included in Section 620(q) and the Brooke Amendment. Section 617 of the FAA provides for up to eight months of funds availability for expenses associated with the winding up of terminated programs. Other authorities include exemptions for child survival and AIDS-related activities, activities assisting victims of war and displaced children, and certain activities determined to be in the national interest of the United States.

USAID reported that Liberia's debt to the United States was \$365 million as of March 31, 1995, and that the total requirements for its external debt service exceed half the entire national budget. For fiscal year 2000 funds, USAID/Liberia reported obligations of \$8.14 million.

The audit field work began at USAID/Ghana on August 13, 2001 and ended at USAID/Liberia on September 7, 2001.

Audit Objective

As part of our fiscal year 2001 annual audit program, we performed this audit to answer the following audit objective:

For its programs in Liberia, and for its Fiscal Year 2000 appropriations, did USAID/Liberia comply with and implement selected criteria of the Brooke Amendment and Sections 620(q) and 617 of the Foreign Assistance Act of 1961?

Appendix I contains a complete discussion of the scope and methodology for the audit.

Audit Findings

The audit disclosed that USAID/Liberia complied with and implemented selected criteria of the Brooke Amendment and Sections 620(q) and 617 of the Foreign Assistance Act of 1961 for fiscal year 2000 appropriations. It prepared a "wind up" plan in accordance with USAID guidance, obtained required waivers under available statutory authorities for activities that it wanted to

continue, and notified Congress as required by certain waivers. After the congressional notification period had expired, USAID/Liberia then obligated fiscal year 2000 funds for the continuing activities in compliance with the above legislation. These procedures are discussed below.

Activities Continued Under Statutory Authorities

In January 2000 USAID/Washington issued guidance² to USAID/Liberia to cease recording obligations for assistance to Liberia, pursuant to the Brooke Amendment contained in the individual appropriation acts (the Act). The guidance requested USAID/Liberia to prepare and submit to USAID/Washington a plan for the orderly “wind up” of affected assistance to Liberia.

The guidance required that the “wind up” plan be a comprehensive list of all USAID-funded activities in Liberia so that all activities could be considered for possible continuation under applicable statutory waivers. Each program was to be reviewed in order that the Africa Bureau could decide on whether to continue or terminate the program. Additionally, the plan was to include (1) a description of all assistance activities being conducted in Liberia; (2) a brief discussion of the effect of suspension or termination of the programs and/or activities; and (3) identification of exemptions/waivers/exceptions available for continuing the activity and a recommendation whether and how it should be utilized. USAID/Liberia prepared the plan for approval by USAID’s Assistant Administrator for Africa and the Administrator in April 2000.

As a result of its analysis, as described in its “wind up” plan, USAID/Liberia decided to fund 17 activities based on various statutory authorities or exceptions that allowed it to obligate fiscal year 2000 funds despite the Section 620(q) and Brooke Amendment sanctions. The three statutory authorities used by USAID/Liberia are as follows.

Section 522 authority—Section 522 of the Act permits child survival and disease funds to be used for child survival, and HIV/AIDS-related activities, notwithstanding any provision of law that restricts assistance to foreign countries. The plan recommended, as a matter of policy, the continuation and obligation of fiscal year 2000 funds for five child survival and HIV/AIDS-related activities. As a matter of policy, the Assistant Administrator for the Bureau for Africa approved these activities in July 2000. USAID/Liberia then obligated \$2.38 million for these activities.

Section 538(a) authority—Section 538(a) of the Act provides authority to use development assistance and economic support funding to support programs of assistance for victims of war or displaced children, notwithstanding any provision of law that restricts assistance to foreign countries. The plan recommended, as a

² Cable SECSTATE 00466, dated January 3, 2000

matter of policy, the continuation and obligation of fiscal year 2000 funds for two victims of war or displaced children activities. As a matter of policy, the Assistant Administrator for the Bureau for Africa approved these activities in July 2000. USAID/Liberia then obligated \$1.75 million under these activities.

Section 541(a) authority—Section 541(a) of the Act permits USAID to provide assistance to non-governmental programs, notwithstanding any provision of law that restricts assistance to foreign countries. The President (this authority has been delegated to the Administrator of USAID³) must consider it in the U.S. national interest to do so, and Congress must be notified prior to the resumption of activities. The plan recommended, as a matter of law, the continuation and obligation of fiscal year 2000 funds for ten activities under this authority. The USAID Administrator on July 14, 2000, taking into consideration that it was in the U.S. national interest and pursuant to Section 541(a), approved the continuation and obligation of fiscal year 2000 funds for the ten activities. USAID subsequently notified Congress on July 25, 2000, of the program change.

After obtaining approvals from the Africa Bureau and the Administrator, and waiting for the congressional notification period to expire, USAID/Liberia obligated \$3.71 million for these ten continued activities.

Funding for two activities in the “wind up” plan was transferred to the Africa Bureau. Of the Section 541(a) amount above, \$540,000 was carryover funds from previous years that were not subject to Brooke. In addition, \$300,000 of carryover funds were obligated for an additional activity⁴ not funded on the “wind up” plan that was not subject to Brooke. Total obligations for fiscal year 2000 came to \$8.14 million. A brief description of the continued activities is presented in Appendix III.

Management Comments and Our Evaluation

Mission management provided no official comments regarding the findings in this report. However, they unofficially informed us that they had no comment on the report and accepted it as written.

³ Executive Order 12163 as amended and State Department Delegation of Authority No. 145.

⁴ Micro-project Support for Resettlement and Re-integration, Project No. 669-0226

Scope and Methodology

Scope

The audit was conducted in accordance with generally accepted government auditing standards and assessed whether, for its programs in Liberia, USAID/Liberia complied with selected sections of recent legislation. This legislation addresses the suspension of assistance to countries who are in default for a period of six months or more on the principal or interest on any loans made by the United States under the Foreign Assistance Act of 1961, as amended.

Field work was performed at the following locations:

- from USAID/Ghana from August 13, 2001 through August 17, 2001; and
- USAID/Liberia August 29, 2001 through September 7, 2001.

In answering our audit objective, our audit scope included USAID supported (i.e. funded) activities funded with fiscal year 2000 appropriations, which were being implemented in Liberia from the date of the signing of the fiscal year 2000 appropriation act through the end of our fieldwork. We assessed management controls over these funds governing the identification, analysis, and ultimate disposition of funding as they related to selected sections of the Foreign Assistance Act of 1961 and the appropriations acts.

The principal audit criteria that we used were Sections 512, 522, 538(a) and 541(a) of the appropriations act for fiscal year 2000⁵, as well as Sections 620(q) and 617 of the Foreign Assistance Act. We also used guidance provided by USAID/Washington to USAID/Liberia regarding the preparation of the “wind up” plan and the requirements for congressional notifications.

We examined all activities on USAID/Liberia’s “wind up” plan and reported in the Mission’s accounting system (maintained by USAID/Ghana) as activities in Liberia, which were funded by fiscal year 2000 appropriations. In addition, we looked at certain activities that were being conducted in the country during fiscal year 2000 by the Global Bureau. We determined that these activities had not used fiscal year 2000 funds and, therefore, were not subject to the Brooke Amendment and Section 620(q) of the Foreign Assistance Act.

We examined all of the \$8.14 million fiscal year 2000 appropriations obligated in fiscal year 2000 by USAID/Liberia. Although coded as fiscal year 2000 appropriations, some of these funds were actually carryover funds from prior years, and therefore not subject to the Brooke Amendment and Section 620(q).

⁵ Foreign Operations, Export Financing, and Related Programs Appropriations Act, fiscal year 2000

Methodology

To assess management controls, the methodology included: (1) reviewing Global Bureau program activities to determine if they included activities in Liberia funded by fiscal year 2000 appropriations, (2) examining appropriate documentation, and (3) conducting interviews with cognizant officials to determine whether the Mission had met its responsibilities established by Section 512 of the fiscal year 2000 appropriations act, as well as Sections 620(q) and 617 of the FAA.

To answer our audit objective, we: (1) reviewed USAID/Liberia's "wind up" plan for activities in Liberia; (2) reviewed program documentation maintained by USAID/Ghana and USAID/Liberia; (3) reviewed approvals and waivers issued by the USAID Administrator and the Assistant Administrator for the Africa Bureau; and (4) conducted interviews with cognizant officials of USAID in Ghana, Liberia and Washington, as well as the Regional Legal Advisor in Dakar.

Due to the importance of USAID complying with the Brooke Amendment of the fiscal year 2000 appropriation act and Section 620(q) of the Foreign Assistance Act of 1961, for reporting purposes we identified our materiality threshold as any activity, regardless of size, as having operations in Liberia.

**Management
Comments**

Management provided no official comments on the report.

Description of Activities

Activities Funded by Fiscal Year 2000 Appropriations and Implemented in Liberia

Name of Activity	Description of Activity
Liberian Election Management Assistance (Activity No. 669-0219)	Media promotion activity to establish an independent and responsible voice in the broadcast media, which includes independent news coverage, and community service programming.
Democracy and Human Rights (Activity No. 698-0588)	Funding to democracy and human rights groups to promote civil society participation in activities that protect human rights and strengthen good governance.
Liberia Rehabilitation, Reconstruction & Recovery (Activity No. 669-0222)	Vocational skills training program focusing on trauma counseling, appropriate skills training, follow-up services, agricultural production and basic education.
Accelerated Vocational Training for Demobilized Soldiers (Activity No. 669-0224)	Vocational skills training program to provide short-term rehabilitation, education, and technical/vocational skills training.
Community Health Initiative (Activity No. 669-0228)	Child survival and safe motherhood project designed to improve the health of women of reproductive age and children under five years.
Better Health Practices (Activity No. 669-0232.01)	Program to improve primary health care services by reducing morbidity and mortality among children, women and the disabled.
Better Health Practices (Activity No. 669-0232.02)	Child survival and safe motherhood project designed to improve the health of women of reproductive age and children under five years.
Better Health Practices (Activity No. 669-0232.03)	Maternal child health project to improve the health of women and children.
Rehabilitation of Liberia's Food Production Capacity (Activity No. 669-0233.01)	Program to strengthen the capacity of local non-governmental organizations, community groups and individual farmers in food production and cash crop and tree crop revitalization.
Rehabilitation of Liberia's Food Production Capacity (Activity No. 669-0233.02)	Food crop production program with the aim of increasing food production by introducing high-yielding crop varieties and improved farming techniques to community groups.
Rehabilitation of Liberia's Food Production Capacity (Activity No. 669-0233.03)	Food crop production and small ruminant project to promote integrated agriculture development and food security.
P.L. 480 Title II—Transitional Assistance Program (Activity No. 669-0234)	Program to support agricultural recovery and rural rehabilitation, re-establish and improve the quality of primary education, and support institutions providing health care and vocational training.
African Disease Control (Activity No. 698-0559.02)	Polio eradication initiative to strengthen routine immunization services by contributing to development of sustainable immunization and disease control programs.
Special Self Help (Activity No. 698-9901.69)	Project to support the participation of local communities in activities that improve their welfare by encouraging self-reliance within the communities to undertake other activities by themselves.

USDA RSSA (Activity No. 698-PARTS)	Program to enable short and long-term advisors to provide professional services in strategic planning, policy development, food security initiatives and impact assessment.
Prosthetics and Orthotics Support (Activity No. 669-0235)	Program to establish an ten-year plan for orthopedic assistance and rehabilitation, and provision of training for orthopedic technicians, technical assistance for institutional strengthening training for appropriate home-based rehabilitation, and identification and referral of those in need of orthopedic and rehabilitation assistance.
War Affected Youths Support II (Activity No. 669-0236)	Program to provide improved economic status of vulnerable children, and to promote participation of youths in organized sports programs for positive and constructive community action.